

15. Adulteration and misbranding of Posner's Black Hair Coloring. U. S. v. 65 Cartons of Posner's Black Instantaneous Hair Coloring. Default decree of condemnation and destruction. (F. D. C. No. 170. Sample No. 59651-D.)

Each carton of this product contained two bottles; one labeled "A" contained paraphenylenediamine and the other labeled "B" contained a solution of approximately 5 percent of hydrogen peroxide. It was a hair dye and was not labeled in the manner required by law.

On February 15, 1939, the United States attorney for the District of New Jersey filed a libel against 65 cartons of the above-named cosmetic at Newark, N. J.; alleging that the article had been shipped in interstate commerce on or about December 12, 1938, and January 3, 1939, by I. Posner from New York, N. Y.; and charging that it was adulterated and misbranded. It was labeled in part: (Carton) "Posner's Black Instantaneous Hair Coloring Leaves the hair soft and glossy Caution—This product contains an aniline derivative or an amine, which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made I. Posner Perfumer New York"; (bottles "A" and "B") "Black Posner's Instantaneous Hair Coloring By one single application will color gray, faded or bleached hair to its original shade. Natural and durable colors. Directions inside. Sold by all Druggists. Hair Dealers and Department Stores. This dye cannot be washed off or bleached out"; (bottle "A" only) "Caution: This product contains an aniline derivative or an amine, which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness."

The article was alleged to be adulterated in that it contained a poisonous or deleterious substance—paraphenylenediamine, which might have rendered it injurious to users under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual, and the label did not bear the "Caution" statement in the form prescribed by law, namely, "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness," either on the carton or bottle "A"; while bottle "B" bore no "Caution" statement at all.

Misbranding was alleged in that the "Caution" required by law was not prominently placed on the labeling with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

On March 18, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

LIPSTICKS

16. Adulteration of Guerlain Lipsticks. U. S. v. 40,270 Lipsticks. Consent decree of condemnation. Product released under bond conditioned that it be removed from containers, placed in mass form, and reshipped to country of origin. (F. D. C. No. 233. Sample Nos. 60146-D, 60148-D, 60152-D, 60159-D, 60160-D, 60161-D.)

This product was a cosmetic containing cadmium and selenium—poisonous or deleterious substances which might have rendered it injurious to users under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

On June 16, 1939, the United States attorney for the Southern District of New York filed a libel against 40,270 lipsticks at New York, N. Y.; alleging that the article had been shipped from Europe to New York, N. Y., within the period from on or about September 29, 1936, to on or about January 13, 1939; and charging that it was adulterated. The article was labeled variously: (Cartons) "Rouge A Levres Clair Guerlain No. 144"; "Rouge A Levres Mandarin Guerlain No. 160"; "Rouge A Levres Medium Guerlain No. 145"; "Pomades Rouges Medium Guerlain * * * Paris"; (some containers) "Guerlain Paris France."

On August 16, 1939, Guerlain, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be removed from